

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

	)	
PASCAL ABIDOR, et al.	)	
	)	
Plaintiffs,	)	Civil Action
	)	No. 10 CV 4059
v.	)	
	)	(Korman, J.)
JEH JOHNSON, et al.	)	(Azrack, M.J.)
	)	
Defendants	)	
	)	

**DEFENDANTS’ RESPONSE TO COURT’S SEPTEMBER 2, ORDER**

In response to the Court’s September 2, 2015 Order (ECF No. 74), Defendants rest on their prior filings regarding the sealed records. *See* ECF Nos. 54, 61, 67, 73. Defendants, however, emphasize two points.

1. As Defendants have previously explained, the government records at issue are contained in several systems of records as defined by the Privacy Act, 5 U.S.C. § 552a: TECS, an updated and modified version of the former Department of Treasury Enforcement Communication Systems, now principally owned and managed by Customs and Border Protection (“CBP”), *see* Notice of Privacy Act System of Records, 73 Fed. Reg. 77778 (Dec. 19, 2008); Immigration and Customs Enforcement’s (“ICE”) External Investigations Systems of Records, *see* Notice of Privacy Act System of Records, 75 Fed. Reg. 404 (Jan. 5, 2010); and the Department of Homeland Security’s (“DHS”) General Legal Records System of Records, *see* Notice of Privacy Act System of Records, 76 Fed. Reg. 72428 (Nov. 23, 2011). *See* ECF No. 54, at 6 (further describing these systems of records). Subject only to specific exceptions, 5 U.S.C. § 552a(b)(1)-(12), the Privacy Act prohibits an agency from disclosing “any record

contained in a system of records to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.” 5 U.S.C. § 552a(b). The exceptions include “routine use,” which has been defined by agency regulations to include disclosure to a court in the course of litigation. *See* 5 U.S.C. § 552a(b)(3); 73 Fed. Reg. at 7781; 75 Fed. Reg. at 407. The Privacy Act also authorizes disclosure of public records “pursuant to an order of a court of competent jurisdiction.” 5 U.S.C. § 552a(b)(11).

2. As explained in one of Defendants’ prior filings (ECF No. 67), some of the “unredacted portions of the records include personally identifiable information of third parties.” However, it does not appear that the Court’s Order (ECF No. 74) contemplates the release of this third-party information.

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Respectfully submitted,

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